

Introduced by Senator Margett

February 20, 2004

An act to repeal Section 7555 of the Penal Code, relating to medical testing of prisoners.

LEGISLATIVE COUNSEL'S DIGEST

SB 1708, as introduced, Margett. Prisoners: medical testing.

Existing law establishes a comprehensive program of HIV testing for persons incarcerated in jails and prisons, as specified. Existing law provides that violations of certain of these provisions are crimes. Existing law imposes various duties on local law enforcement in connection with implementing the provisions of the program. Existing law also provides that the provisions constituting the program will remain in effect only until January 1, 2005.

This bill would delete the provisions of law that provide that the program would remain in effect only until January 1, 2005, and thereby authorize the program to operate indefinitely.

By extending the operation of certain crimes and the imposition of various duties on local law enforcement indefinitely, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.



With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7555 of the Penal Code is repealed.

2 ~~7555. This title shall remain in effect only until January 1,~~
3 ~~2005, and as of that date is repealed, unless a later enacted statute,~~
4 ~~which is enacted before January 1, 2005, deletes or extends that~~
5 ~~date.~~

6 ~~Notwithstanding this section, whenever, prior to January 1,~~
7 ~~2005, a law enforcement agency employee has filed a report~~
8 ~~pursuant to Section 7510, or a request for a human~~
9 ~~immunodeficiency virus (HIV) test has been filed pursuant to~~
10 ~~Section 7512, or any other procedure for requiring a test has been~~
11 ~~commenced pursuant to this title, the proceedings shall be~~
12 ~~permitted to continue on or after January 1, 2005, until they have~~
13 ~~been concluded.~~

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution for
16 certain costs that may be incurred by a local agency or school
17 district because in that regard this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

23 However, notwithstanding Section 17610 of the Government
24 Code, if the Commission on State Mandates determines that this
25 act contains other costs mandated by the state, reimbursement to
26 local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code. If the statewide cost of the
29 claim for reimbursement does not exceed one million dollars

1 (\$1,000,000), reimbursement shall be made from the State
2 Mandates Claims Fund.

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